

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 1381 Relating to Administrative Review of Property Taxes

**SPONSOR(S):** Finance & Tax Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Subcommittee		Aldridge	Langston

### SUMMARY ANALYSIS

The bill contains several substantial changes to ch. 194, F.S., relating to the value adjustment board review of property tax assessments, exemptions and classifications. Specifically, the bill addresses:

1. The composition of the value adjustment board. The bill changes the composition of value adjustment board membership by replacing one of the two board members from the county governing board with a "professional member" who meets certain requirements.
2. The value adjustment board attorney. Currently, the value adjustment board appoints a private board attorney who has practiced law for over 5 years. The board attorney may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes. No meeting of the board shall take place unless counsel to the board is present. The bill substantially expands, in statute, the board attorney's qualifications, responsibilities and duties.
3. Requirements for written decisions by the value adjustment board. Currently, the value adjustment board is required to issue written decisions in certain circumstances. The bill substantially expands the statutory provisions regarding the requirements for written decisions by the value adjustment board, including the required contents of such decisions and providing specific direction regarding the process by which such decisions are arrived at.
4. Special magistrates. Currently, in counties having a population of more than 75,000, the board appoints special magistrates for the purpose of taking testimony and making recommendations to the board. This is optional for counties with a lesser population. The bill would substantially expand upon the special magistrate's qualifications, duties and responsibilities in statute.
5. Consideration of special magistrate's recommended decisions by the value adjustment board. Currently, special magistrates are required to accurately and completely preserve all testimony and, in making recommendations to the value adjustment board, include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. The bill substantially expands upon the role of the special magistrate and the process by which the value adjustment board considers special magistrate's recommended decisions.
6. Value adjustment board training and examinations. Currently, the Department of Revenue (Department) is required to develop a policies and procedures manual for value adjustment boards and to provide training for special magistrates. The bill substantially expands upon required training for value adjustment board special magistrates and board attorneys.
7. Reviews of value adjustment board procedures, decisions and records by the Department. The bill authorizes the Department to conduct reviews of the procedures, decisions, and records of value adjustment boards, board attorneys, and special magistrates, and provides for the Department to issue a Notice of Defects under specified circumstances and provides a mechanism for resolving such defects.

The Revenue Estimating Conference reviewed language substantially identical to this bill and determined there would be no local government revenue impacts. The Department estimates that the provisions of the bill will increase the department's operational expenditures by approximately \$300,000 annually.

The bill has an effective date of July 1, 2013.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcs1381.FTSC

DATE: 4/2/2013

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Current Situation**

##### Background

The Florida Constitution reserves ad valorem taxation (i.e., property taxes) for local governments and it is their largest source of funding.<sup>1</sup> There are several steps to the ad valorem tax process. In the first step, county property appraisers establish each property's just, or market, value as of January 1 of each year and apply any valid exemptions, classifications, or assessment limitations to determine the parcel's taxable value. Local taxing authorities set a millage rate (i.e., tax rate) that is levied on the property's taxable value. Each August, county property appraisers send property owners a Notice of Proposed Property Taxes (TRIM Notice), which identifies the just, assessed, and taxable value of the parcel and the tax that will be due based on the millage rates proposed by local governments.<sup>2</sup> Property owners who disagree with the county property appraiser assessment of their property's market value or who have been denied an exemption or property classification may:

- Request an informal meeting with the property appraiser<sup>3</sup>. Changes made by the property appraiser as a result of such meetings are known as "counter changes";
- Appeal to the county value adjustment board<sup>4</sup>; or
- Challenge the assessment in circuit court<sup>5</sup>.

Property taxes are due November 1 or as soon thereafter as the certified tax roll is received by the tax collector.<sup>6</sup> Pending any appeals, unpaid taxes are delinquent after March 31 of the following year.

##### Composition of the Value Adjustment Board

Section 194.015, F.S., requires that each county have a value adjustment board consisting of five members as follows:

- Two members of the governing body of the county. One will be elected from membership of the governing body and the other will be selected by the chairperson.
- One member of the school board elected by membership of the school board.
- One citizen appointed by the governing body of the county. The citizen must own homestead property within the county.
- One citizen appointed by the school board. This person must own a business occupying commercial space within the school district.

The statute provides that a quorum of three members of the board must include at least:

- One member of the governing body of the county.
- One member of the school board.
- One citizen member.

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<sup>1</sup> Article VII, Sections 1(a) and (9), Florida Constitution

<sup>2</sup> Section 200.069, F.S.

<sup>3</sup> Section 194.011(2), F.S.

<sup>4</sup> Section 194.011(3), F.S.

<sup>5</sup> Section 194.171, F.S.

<sup>6</sup> Section 197.333, F.S.

In addition, s. 194.035, F.S., requires counties with a population greater than 75,000 to hire special magistrates to conduct valuation hearings. These special magistrates must be state certified real estate appraisers with at least five years of applicable experience. Before conducting hearings, a board must hold an organizational meeting to appoint special magistrates and legal counsel and to perform other administrative functions<sup>7</sup>.

### Board Attorney

Section 194.015, F.S., provides in part that the board shall appoint private counsel who has practiced law for over 5 years and who shall receive such compensation as may be established by the board. The private counsel may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes. No meeting of the board shall take place unless counsel to the board is present.

### Written Decisions of the Value Adjustment Board

Section 194.034(2), F.S., provides:

In each case, except if the complaint is withdrawn by the petitioner or if the complaint is acknowledged as correct by the property appraiser, the value adjustment board shall render a written decision. All such decisions shall be issued within 20 calendar days after the last day the board is in session under s. 194.032. The decision of the board must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser. If a special magistrate has been appointed, the recommendations of the special magistrate shall be considered by the board. The clerk, upon issuance of a decision, shall, on a form provided by the Department of Revenue, notify by first-class mail each taxpayer and the property appraiser of the decision of the board. If requested by the Department of Revenue, the clerk shall provide to the Department a copy of the decision or information relating to the tax impact of the findings and results of the board as described in s. 194.037 in the manner and form requested.

### Special Magistrates

Section 194.035(1), F.S., provides in part that:

In counties having a population of more than 75,000, the board shall appoint special magistrates for the purpose of taking testimony and making recommendations to the board, which recommendations the board may act upon without further hearing. These special magistrates may not be elected or appointed officials or employees of the county but shall be selected from a list of those qualified individuals who are willing to serve as special magistrates. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve as special magistrates.

### Special Magistrates Recommended Decisions

Section 194.035(1), F.S., provides in part that:

The special magistrate shall accurately and completely preserve all testimony and, in making recommendations to the value adjustment board, shall include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser.

### Value Adjustment Board Training

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<sup>7</sup> Section 194.011(5)(a)2., F.S.  
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Section 194.011, F.S., provides in part that the Department is required to develop a policies and procedures manual for value adjustment boards, special magistrates, and property owners to use in proceedings before the value adjustment board. In addition, s. 194.035(3), F.S., provides that the Department shall provide and conduct training for special magistrates at least once each state fiscal year in at least five locations throughout the state. Such training shall emphasize the Department's standard measures of value, including the guidelines for real and tangible personal property. A person who has three years of relevant experience and who has completed the training provided by the department under this subsection may be appointed as a special magistrate. The training is open to the public.

### Reviews of Value Adjustment Boards by the Department of Revenue

Section 194.036(1)(c), F.S., relating to appeals of decisions of the value adjustment board provides that the property appraiser may appeal a decision to the circuit court if:

There is an assertion by the property appraiser to the Department of Revenue that there exists a consistent and continuous violation of the intent of the law or administrative rules by the value adjustment board in its decisions. The property appraiser shall notify the department of those portions of the tax roll for which the assertion is made. The department shall thereupon notify the clerk of the board who shall, within 15 days of the notification by the department, send the written decisions of the board to the department. Within 30 days of the receipt of the decisions by the department, the department shall notify the property appraiser of its decision relative to further judicial proceedings. If the department finds upon investigation that a consistent and continuous violation of the intent of the law or administrative rules by the board has occurred, it shall so inform the property appraiser, who may thereupon bring suit in circuit court against the value adjustment board for injunctive relief to prohibit continuation of the violation of the law or administrative rules and for a mandatory injunction to restore the tax roll to its just value in such amount as determined by judicial proceeding. However, when a final judicial decision is rendered as a result of an appeal filed pursuant to this paragraph which alters or changes an assessment of a parcel of property of any taxpayer not a party to such procedure, such taxpayer shall have 60 days from the date of the final judicial decision to file an action to contest such altered or changed assessment pursuant to s. 194.171(1), and the provisions of s. 194.171(2) shall not bar such action.

### **Effect of Proposed Changes**

#### Composition of the Value Adjustment Board

The bill amends s. 194.015, F.S, altering the composition of the value adjustment board to:

- One member of the governing body of the county, elected from membership of the governing body. The bill removes the requirement that the chairperson of the board be a member of the governing body of the county.
- One member of the school board elected by membership of the school board.
- One citizen appointed by the governing body of the county. The citizen must own homestead property within the county.
- One citizen appointed by the school board. This person must own a business occupying commercial space within the school district.
- The bill replaces one member of the governing board of the county with a "professional member" to be appointed by the clerk of the value adjustment board. The bill also provides for the appointment of an "alternate professional member to serve when necessary in place of the professional member." The professional member and the alternate professional member must be a member of the Florida Bar, a Florida certified public accountant or a Florida certified general appraiser.

The bill also amends s. 194.015, F.S., to:

- Provide that the chairperson of the value adjustment board shall be either a citizen member or a professional member.
- Specify that “the board shall have oversight of the board attorney, board clerk, any special magistrates, and a review special magistrate and shall require written legal justification for any advice provided by the board attorney.”
- Provide that a quorum of three members of the board must include at least:
  - One member of the governing body of the county or the school board;
  - One citizen member; and
  - One professional member.

### Board Attorney

The bill creates s. 194.017, F.S., that substantially expands upon the board attorney’s qualifications, responsibilities and duties in statute. Among other things, the new statutory provision:

- Provides that the value adjustment board shall select and appoint a private board attorney, by written contract, who shall be a member of the Florida Bar with no less than 5 years’ experience in the area of ad valorem taxation and shall complete the Department’s value adjustment board training and pass the corresponding training examination and shall do so annually. The contract must contain the following elements:
  - The contract shall extend for no more than the period of time necessary for the board to complete its duties in reviewing the original assessments of a single tax year;
  - The board attorney shall support and promote the board-related activities necessary for promoting and maintaining a high level of public trust in the value adjustment board process. In all board-related activities, the board attorney will conduct herself or himself in a manner that promotes such high level of public trust. Such public trust requires fairness, consistency, transparency, ethical behavior, competence, and uniform application of the law by the board attorney;
  - The board attorney shall not be an advocate for a taxing authority, but shall be an independent advocate for adherence by the board and special magistrates to the laws of the State of Florida including, but not limited to: the ethics provisions in chapter 112, part III; the rights of property taxpayers as referenced in section 192.0105; the open government provisions in section 286.011; and the provisions of chapter 194, parts I and III;
  - In performing the board attorney’s duties, the board attorney’s legal advice shall be based solely on the law and shall not be influenced by the amount of property tax involved in any petition or decision;
  - As necessary for compliance with law or when requested, the board attorney shall provide timely advice to board members, the board clerk, and to special magistrates, including review special magistrates, to ensure that all board-related activities meet all requirements of law. The board attorney shall advise the board and special magistrates, including review special magistrates, of the prohibition against the board or a special magistrate allowing the amount of property tax involved in any petition or decision to influence the proper outcome under the law; the requirements for training and examinations; statutory criteria that apply to the issue under administrative review; the consideration of evidence; requirements for written decisions; requirements for consideration of recommended decisions; and all other applicable law;

- The board attorney shall ensure the maintenance of complete and accurate records regarding any and all written communication on board-related subjects between the board attorney and the following persons: any other board attorney, any property appraiser or staff, any property owner or representative, any attorney for a party, any special magistrate, including a review special magistrate, a board member, the board clerk, or the Department; and
- All other elements necessary for the orderly and timely performance of board duties with adherence to all requirements of law, which elements must include duties, standards of conduct, and performance standards for the board attorney.
- Provides specific requirements for verbal or written advice from the board attorney regarding any part of the value adjustment board process. These requirements include:
  - When a board member requests verbal or written advice from the board attorney regarding any part of the value adjustment board process, the attorney shall timely provide such legal advice. If a board member believes this legal advice to be in error, the board member shall immediately notify the board, board attorney, board clerk, and the Department in writing and shall include facts and reasons that support this belief.
  - Any verbal or written advice from the board attorney to any board member, directly or indirectly, must be noted on the next meeting agenda with documentation of the advice provided to each board member and made available to the public.
  - When a special magistrate requests verbal or written legal advice from the board attorney regarding the special magistrate's duties, the board attorney shall timely provide such legal advice. If the special magistrate believes this legal advice to be in error, the special magistrate shall immediately notify the board, board attorney, board clerk, and the Department in writing and shall include facts and reasons that support this belief.
  - Any verbal advice from the board attorney to any special magistrate or review special magistrate, must be described in writing by the special magistrate. Any written or verbal advice from the board attorney to any special magistrate or review special magistrate must be documented in every affected recommendation along with the steps taken by the special magistrate or review special magistrate in response to such advice.
  - Any verbal or written advice from the board attorney to the board clerk or staff shall be noted on the next meeting agenda with documentation of the advice provided to each board member along with the steps taken by the board clerk or staff in response to such advice.
- Provides that a review special magistrate, may seek advice from the board attorney and, if so, the board attorney shall timely provide such advice. If a review special magistrate disagrees with the board attorney's advice, whether provided upon request or not, the review special magistrate shall proceed based on his or her own belief of the correct course of action, but shall immediately document in writing the facts, law, and reasons for the disagreement along with the course of action taken and shall immediately provide this documentation to the board, board attorney, board clerk, and the Department.
- Provides that the board, board attorney, board clerk, and all special magistrates, including review special magistrates, shall ensure the complete and accurate keeping of all records pertaining to the value adjustment board process. Such records must include any and all written communication on subjects related to board activities between the board attorney and the following: any other board attorney, any property appraiser or staff, any property owner or representative, any attorney for a party, any special magistrate, any review special magistrates, a board member, the board clerk, or the Department.
- Provides that the beginning of a petition hearing conducted by the board or a special magistrate, the board attorney shall ensure that each board member or the special magistrate, as the case may be, has a copy of the statutory criteria that apply to the issue under

administrative review and shall provide the advice and assistance necessary to ensure that each board member understands the proper use of the statutory criteria in considering the evidence. The board attorney shall clearly, completely, and timely answer any questions regarding the evidence and such criteria.

### Written Decisions of the Value Adjustment Board

The bill creates s. 194.020, F.S., that substantially expands the statutory provisions regarding the requirements for written decisions by the value adjustment board. Among other things, the new statutory provision:

- Provides that for each petition, except if the petition is withdrawn by the petitioner or if the petition is acknowledged as correct by the property appraiser, the value adjustment board shall render a written final decision containing specific findings of fact and conclusions of law and must include specific reasons for upholding or overturning the determination of the property appraiser.
- Provides similar requirements for written recommendations for each petition considered by a special magistrate.
- Requires the board attorney's or review special magistrate's advice relating to the facts involved in a petition or to applicable law, if in writing, be included in the record and documented within the findings of fact and conclusions of law in the written decisions of the board and special magistrates. If not in writing, such advice shall be documented within the findings of fact and conclusions of law in the written decision of the board and special magistrates.
- Provides specific requirements for the findings of fact in a final decision, including recitation of each statutory criterion applied by the property appraiser, the reasons why each applied factor was applied, and how each applied factor was applied. The board shall also identify, and report as findings of fact, each statutory criterion not applied by the property appraiser and must determine and report the reasons why each such criterion was not applied by the property appraiser in developing the assessment.
- Provides that the Legislature intends for the value adjustment board to disallow the creation of a special class of property consisting of property that is the subject of a board petition.
- Provides that in administrative reviews involving real property just value assessments, the board and special magistrates shall take administrative or judicial notice, on the board or special magistrate's own motion, of the property appraiser's adjustments to recorded selling prices or fair market value made under s. 193.011(8), if any, and of the forms on which the property appraiser reports these adjustments under s. 192.001(18).
- Requires the Department to make these completed and signed forms available on its website for the benefit of taxpayers, boards, and special magistrates.
- For each petition involving real property just value, the board and special magistrates shall make a finding of fact identifying such appraisal practice applied by the property appraiser to comparable real property within the county.
- Additionally, for each petitioned real property parcel, the board and special magistrates shall make findings of fact on what the property appraiser actually did and did not do under s. 193.011(8) in developing the original assessment. Where necessary for consistency with appraisal practices applied by the property appraiser to comparable real property within the county and to avoid the unauthorized creation of a special class of property, the board and special magistrates shall apply, in administrative reviews involving real property just value assessments, the same type of adjustments applied by the property appraiser under s. 193.011(8) and reported under s. 192.001(18), in an amount that does not result in double-counting the adjustment.
- Provides that the conclusions of law in a final decision must be stated in the terms of the legal criteria that apply to the issue under administrative review and must be logically connected to

the findings of fact. The conclusions of law must be made in the statutory order of proof that applies to the issue under administrative review.

- Provides that the value adjustment board's reasons for its decisions must be expressed in findings of fact and conclusions of law and must be sufficiently detailed to enable the parties to understand the evidence, findings of fact, and law on which the decisions are based.

### Special Magistrates

The bill amends s. 194.035, F.S., substantially expanding upon the special magistrate's duties and responsibilities. The bill:

- Provides specific requirements for special magistrates to be appointed by written contract and specifying certain duties, standards of conduct and performance standards for the special magistrate.
- Requires special magistrates to annually complete the Department's value adjustment board training and pass the corresponding training examination.
- Provides that an attorney special magistrate shall not be appointed and shall not serve simultaneously as a board attorney or review special magistrate in any county, either during the same calendar period or during administrative reviews for the same tax year
- Provides that in addition to the training noted above for special magistrates, special magistrates appointed to hear issues regarding the valuation of tangible personal property to complete at least 120 hours of professional coursework in tangible personal property valuation of which at least 30 hours was completed within the 5 year period preceding appointment. Alternatively, the special magistrate may be a member of a nationally recognized appraisal organization and have a nationally recognized professional designation in tangible personal property valuation.
- Provides that a value adjustment board is authorized to appoint, by written contract, a qualified review special magistrate for the purpose of assisting the board with reviewing written recommended decisions to determine whether such decisions comply with law.
- Provides that if a board elects not to appoint a review special magistrate, the board attorney shall assist the board with such reviews.
- Provides qualifications for the review special magistrate including certain duties, standards of conduct, and performance standards.

### Special Magistrates Recommended Decisions

The bill creates s. 194.021, F.S., that substantially expands upon the role of the special magistrate and the process by which the value adjustment board considers special magistrate's recommended decisions. Among other things, the new statutory provision:

- Provides that a special magistrate shall not submit to the value adjustment board, and the board shall not adopt, any recommended decision that does not comply with ss. 194.020, 194.301, and 194.3015, and with other statutory provisions that apply to the issue under administrative review.
- Provides that any board member is authorized to review any recommended decision before adoption and to question, verbally or in writing the special magistrate, review special magistrate, or board attorney regarding the sufficiency of the recommended decision and provides for timely response in writing to such questions.
- Provides that if the board properly determines that a recommended decision meets the requirements of law, the board shall adopt the recommended decision without further hearing.

- Provides a process if the board determines that a recommended decision does not meet the requirements of law. This process includes:
  - Not adopting such recommended decision and placing in the petition record the reasons for such determination.
  - The board attorney providing advise to the board regarding further action.
  - The board may direct the original or a different special magistrate to produce a recommended decision that complies with law and that is based on, if necessary, a review of the entire record.
  - If necessary, the board may direct the original or a different special magistrate to conduct a new hearing and then produce a written recommended decision that complies with law. The board shall retain any recommended decisions and all other records of actions taken under this section.

### Value Adjustment Board Training

The bill creates s. 194.023, F.S., that substantially expands upon required training for value adjustment board special magistrates and board attorneys. Among other things, the new section of law:

- Requires the Department to provide and conduct value adjustment board training for board attorneys and board special magistrates, including review special magistrates, at least once each state fiscal year. The training shall emphasize ethics and public trust, procedures for administrative reviews, consideration of evidence, requirements for written decisions, consideration of recommended decisions, applicable law, and the Department’s standard measures of value, including the guidelines for real and tangible personal property. The training shall be open to the public.
- The bill specifies that the Department’s training is to inform boards, the board attorney, and special magistrates, including review special magistrates, of the law and other information necessary for conducting board-related activities in accordance with law and public trust. The new section of law provides specific direction regarding the content of the training materials.
- The bill requires the Department to make available a value adjustment board training examination for the board attorney and special magistrates. Both are required to annually complete all portions of such training and must annually take and pass the accompanying training examination. A review special magistrate must complete the portions of the training and pass the exams that correspond to the type of special magistrate that produced the recommended decisions to be reviewed by the review special magistrate.
- The bill requires board members, board attorneys and special magistrates to “properly consider the department’s training materials.”
- The bill provides a mechanism for such persons to express disagreement with the Department’s training materials and a mechanism for resolving such disagreements.
- The bill provides that ch. 120, F.S., does not apply to the training or its use and does not apply to this new section.

### Reviews of Value Adjustment Boards by the Department of Revenue

The bill creates s. 194.025, F.S., authorizing the Department to conduct reviews of the procedures, decisions, and records of value adjustment boards, board attorneys, special magistrates and review special magistrates. The stated purpose of these reviews is to evaluate adherence to law and to promote public trust. This new section of law provides:

- The Department is entitled to receive from the board, upon written request and at no cost to the Department, any records and information pertaining to the value adjustment board process.

- Upon evaluation of any such reviews, the Department must issue a notice of defects to any value adjustment board where the Department has determined that the board, board attorney, a special magistrate, or review special magistrate, has repeatedly failed to properly perform board duties in accordance with law. The Department is to specify in such notice the board duties that have not been properly performed, the type and extent of the defects, and the Department's requirements for the board to obtain the Department's approval of the performance of the board's duties.
- The bill provides a mechanism for the value adjustment board to either notify the Department in writing of the board's intention to comply with the notice of defects or to request an immediate conference between the board chairperson and the Department.
- After the conference, if the Department finds that the differences have not been resolved, it shall issue an administrative order, which incorporates the corrective actions, if any, to be taken by the value adjustment board to ensure that all board duties are properly performed by the board, board attorney, any special magistrates, and any review special magistrate. The Department shall also issue an administrative order in the case where a value adjustment board has stated its intention to comply.
- After receipt of an administrative order issued under this new mechanism, the value adjustment board shall notify the Department of the board's intent to comply with the order or shall notify the Department of the facts, law, and reasons for the board's intended non-compliance. The administrative order shall contain reasonable timeframes for the board's prompt compliance with the order.
- The Department must monitor a board's efforts to comply with an administrative order and shall issue a written determination of whether the board has complied with the Department's order. Upon receipt of a notice of intended non-compliance or upon the Department's determination that a board has failed to properly perform board duties in accordance with an administrative order, the Department shall take such action as it deems necessary pursuant to s. 195.092, F.S.<sup>8</sup>
- The bill provides that ch. 120, F.S., does not apply to this section.

### Effective Date

The bill has an effective date of July 1, 2013.

### B. SECTION DIRECTORY:

Section 1: Amends s. 194.015, F.S., changing the composition of the value adjustment board.

Section 2: Creates s. 194.017, F.S., requiring the selection and appointment of a board attorney, providing qualifications of the board attorney, specifying the board attorney's duties.

Section 3: Creates s. 194.020, F.S., requiring written decisions by the value adjustment board in certain circumstances, providing requirements for the content of the written decisions.

Section 4: Creates s. 194.021, F.S., providing requirements for the value adjustment board's consideration of recommended decisions provided by special magistrates.

Section 5: Creates s. 194.023, F.S., providing requirements for training by the Department of value adjustment board special magistrates and board attorneys.

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<sup>8</sup> Section 195.092(1), F.S., provides in pertinent part that "The Department of Revenue shall have authority to bring and maintain such actions at law or in equity by mandamus or injunction, or otherwise, to enforce the performance of any duties of any officer or official performing duties with relation to the execution of the tax laws of the state, or to enforce obedience to any lawful order, rule, regulation, or decision of the Department of Revenue lawfully made under the authority of these tax laws."

- Section 6: Creates s. 194.025, F.S., authorizing the Department to conduct reviews of the procedures, decisions, and records of value adjustment boards, board attorneys, special magistrates and review special magistrates; providing for the Department to issue a notification of defects and providing a mechanism for resolution of such defects.
- Section 7: Amends s. 194.034(2), F.S., providing conforming changes to value adjustment board hearing procedures and rules.
- Section 8: Amends s. 194.035, F.S., specifying that special magistrates shall be appointed by written contract; providing requirements for such contracts; specifying duties of special magistrates, including training requirements.
- Section 9: Provides an appropriation.
- Section 10: Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill contains an appropriation of \$208,369 in nonrecurring General Revenue funds to the Department for FY 2012-13 to implement the provisions of the bill. The bill also contains an appropriation of \$326,782 in recurring and \$18,180 in nonrecurring General Revenue funds for the Department of Revenue to implement the provisions of the bill.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference reviewed language substantially identical to this bill and determined there would be no local government revenue impacts.

2. Expenditures:

Unknown.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill may require the expenditures of funds by counties or municipalities or it may reduce the authority that counties or municipalities have to raise revenues in the aggregate; however, an exemption may apply if these possible results have an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**